

CHAPTER 7
ORDERLY CONDUCT

7.01 **OFFENSES AGAINST PUBLIC HEALTH AND SAFETY.**

(1) REGULATION AND USE OF FIREARMS AND OTHER WEAPONS.

(a) **Carrying Weapons.** No person shall carry any concealed pistol, revolver or other similar firearm about the City of New Holstein, or have any firearm, rifle, spring or air gun in his possession unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, except that this provision shall not apply to any policeman or other officer of the law entitled to carry firearms or to hunters hunting in areas designated by the Common Council.

(b) **Discharging Firearms and Other Weapons.** No person except a peace officer shall discharge any pistol, revolver, rifle, shotgun, compressed air gun or other firearm within the City, except where the use of such firearm or arms are required for the protection of person or property, or where used in hunting areas designated by the Common Council, or where fired for test purposes in bona fide repair shops.

(c) **Sale to Minors.** No person shall sell, loan or give any firearm to any person under 18 years of age.

(2) SALE AND USE OF FIREWORKS. Section 167.10, Wisconsin Statutes, exclusive of penalty provisions, is adopted by reference and made a part of this Code.

(3) ABANDONED OR UNATTENDED REFRIGERATORS, ETC. No person shall leave outside any building, dwelling or at a place accessible to children, any unattended or discarded ice box, refrigerator or other container which has an airtight door which may not be opened from the inside.

(4) OBSTRUCTION OF AISLES, FIRE ESCAPES, ETC. No person shall obstruct an aisle, fire escape, entrance or exit or a public building or building used for the assemblage of more than 10 persons.

(5) CONCEALED WEAPONS.

SECTION 1. Firearms restricted in certain City buildings is hereby created to read as follows;

A. **Definitions.**

1. *Firearm* means a weapon that acts by force of gunpowder.

2. *Law Enforcement* means any person employed by the State of Wisconsin or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
 3. *Weapon* means a handgun, an electronic weapon as defined at S.S.941.295, Stats., a knife other than a switchblade under S.S.941.24, Stats., or a billy club.
- B. Applicability of Prohibition. In addition to provisions of S.S.175.60, Stats., enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer to enter the following city municipal buildings while carrying a weapon or a firearm:
1. City Hall
 2. Fire Station
 3. Community Center
 4. Senior Citizen Center
 5. Buildings Operated by the Department of Public Works
 6. All City Well/Pump Stations
 7. Municipal Library
 8. Civic Park Pavilion
 9. Civic Park Shelter
 10. Civic Park Band Shelter
 11. Civic Park Round Stand
 12. Civic Park Brat Stand
 13. Civic Park Ticket Booth
 14. Civic Park Restroom
 15. Aquatic Center
 16. Kiwanis Park Octagon Shelter
 17. Optimist Chalet
 18. Wastewater Treatment Plant
 19. Electric Substations
- C. Signs. Signs meeting the requirements of S.S.943.13(2)(bm)1, Stats., shall be posted in prominent places near all entrances of such buildings regarding such restrictions.
- D. Trespasser Status. Any person who enters or remains in any aforementioned City building contrary to such signage shall be

considered a trespasser subject to penalty as prescribed at Section 20.04 of this code.

SECTION 2: This ordinance shall take effect upon passage and publication in accordance of law. (Ord. 549)

7.02 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.

(1) **DISORDERLY CONDUCT PROHIBITED.** No person shall within the City of New Holstein:

(a) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.

(b) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) **DISTURBANCE OF PUBLIC MEETING.** No person shall disturb a public meeting or loiter about a place of public assemblage.

(3) **ASSAULT AND BATTERY.** No person shall commit an assault and battery upon another.

(4) **KEEPING LIVESTOCK.** No person shall keep livestock within the City except on premises actually used for farming.

(5) **CRUELTY TO ANIMALS.** No person shall treat cruelly any animal within the City.

(6) **ANIMAL NOT TO RUN AT LARGE.** No person owning, possessing or harboring any animal shall allow it to run at large within the City.

(7) **HUNTING PROHIBITED.** No person shall hunt, trap, shoot, or kill any wild animal or bird within the City, except as authorized by the Common Council.

(8) **LOUD AND UNNECESSARY NOISE PROHIBITED.** No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.

(9) **OBEDIENCE TO OFFICERS.** No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority.

(10) ASSISTING ESCAPE OF PRISONER. No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the City.

(11) IMPERSONATING POLICE OFFICERS. No person shall impersonate a policeman or peace officer within the City.

(12) CONSUMPTION OF ALCOHOL IN PUBLIC RIGHT-OF-WAYS. No person shall drink liquor or fermented malt beverages or have in his possession open containers of liquor or fermented malt beverages on any public sidewalks, street, or alley within the City except as authorized by the City Council.(Recr. #150) 7-9-75

(13) (1) LOITERING OF MINORS (CURFEW HOURS). It shall be unlawful for any person under the age of seventeen (17) to congregate, loiter, wander, stroll, stand, or play in or upon the public street, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the City of New Holstein, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 P.M. and 5:00 A.M. of the following day, official city time, unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.

Notwithstanding the above, a person will not be in violation of this Ordinance if that person, under the age of 17, meets one of the following exceptions:

1. Those children accompanied by their parents or guardian;
2. Those children participating in, going to or returning from lawful employment, a school sanctioned activity or a religious event;
3. Any activities protected by the First Amendment;
4. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
5. Any activity conducted by a non-profit or governmental entity that provides recreation, education, training or other care under the supervision of one or more adults; or
6. The child is engaged in interstate or international travel from a location outside Wisconsin to another location outside Wisconsin.

(2) PROBABLE CAUSE. Before an officer may issue a citation, he/she must have probable cause to believe the child has violated the curfew ordinance and that no defense exists.

(3) RESPONSIBILITY OF PARENTS. It shall be unlawful for the parent, guardian, or other adult person having legal custody or control of any minor to suffer or permit or by inefficient control to allow such minor to violate this Section unless the minor is accompanied by his or her parent, guardian, or other adult person having legal custody or control. Parents violating this Section more than one(1) time in a calendar year shall be subject to the penalty provisions of Section 3. (CR. #477)

(4) PENALTY. Any person who violates this Section shall be penalized pursuant to Section 20.04 of the City of New Holstein Code of Ordinances.(Cr. #294)

(14) (1) TRUANCY AND HABITUAL TRUANCY PROHIBITED. For purposes of this section, the following terms shall have the following meanings:

a. "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal, or teacher has not been notified of the legal cause of the absence carried on for the purposes of defeating the intent of the compulsory school attendance law.

b. "Truant" means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.

c. "Habitual Truancy" means any absence from school without an acceptable excuse for part or all of the five (5) or more days on which school is held during a semester.

d. "Dropout" means a child who has ceased to attend school, does not attend public or private school, technical college.

e. "School Attendance Officer" means an employee designated by the School Board to deal with matters relating to school attendance and truancy. "School Attendance Officer" does not include a person designated to take truants into custody, unless that person has also been designated to deal with matters related to school attendance and truancy.

f. "Acceptable Excuse" shall mean written approval of a child's parent or guardian for participation of that child in a program or curriculum modification under Section 118.15 of the Wisconsin Statutes, or in a written statement provided by a parent, a medical doctor, psychiatrist, psychologist, or registered psychiatric counselor, setting forth the specific reasons why a pupil may be or has been absent from school during a period of time for which the student was enrolled and expected by the school authorities to be attending classes. These written statements shall meet standards for and "acceptable excuse" as established by §118.15, Stats. and §118.16, Stats.

g. "Parent" shall mean:

1. Natural father or natural mother of a child born to the mother and father.
2. Adoptive father or adoptive mother of a child adopted by them.
3. Any individual or agency whose status as guardian of the person of the child has been established by judicial decree.

(2) **TRUANCY VIOLATION.** It shall be a violation of New Holstein Municipal Code for a child to be truant as defined in (1)(b) above.

a. A child who is believed to be truant shall be issued a citation for the child's violation of the ordinance. In addition, the responsible parent or the parent having primary placement/custody of the child alleged to be truant may be required to appear at the child's initial appearance and at the trial of the action if necessary.

(3) **TRUANCY PENALTY.** The following penalties may be imposed, in alternative form, upon a child found to be truant after being so charged under Section 7.02(14)(2):

a. Suspension of the child's operating privilege, as defined in §340.01(40), Stats., for not less than thirty (30) days nor more than ninety (90) days. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.

b. A forfeiture in an amount not greater than \$50.00 for a first offense and not more than \$100.00 for a second, third, or fourth offense.

c. An order for the child to participate in counseling, community service, or a supervised work program as provided under §938.34(5g) and (5m), Stats.

d. An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.

e. An order for the child to attend an education program under §938.34(7d), Stats.

f. The parent may receive a monetary fine of up to \$50.00 for each day that a child is absent from school without an acceptable excuse in addition to the penalties to be imposed upon the child within this ordinance.

(4) **HABITUAL TRUANCY VIOLATION.** It shall be a violation of the New Holstein Municipal Code for a child to be a "habitual truant," as defined in (1)(C) above.

(5) **HABITUAL TRUANCY PENALTY.**

a. Suspension of the child's operating privilege, as defined in §340.01(40), Stats., for not less than thirty (30) days nor more than ninety (90) days. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.

- b. A forfeiture of up to \$50.00 to be assessed against the child for each day that the child is truant from School without an acceptable excuse.
- c. An order for the child to participate in counseling, community service, or a supervised work program as provided under §938.34(5g) and (5m), Stats.
- d. An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place: of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.
- e. An order for the child to attend an education program under §938.34(7d)(5m), Stats.
- f. The parent may receive a monetary fine of up to \$50.00 for each day that a child is absent from school without an acceptable excuse in addition to the penalties to be imposed upon the child within this ordinance.

7.03 OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY.

- (1) **GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.** All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the City. Any peace officer or policeman of the City is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the City and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.
- (2) **DISORDERLY HOUSES PROHIBITED.** No person shall keep a disorderly house or house of prostitution within the City.
- (3) **VAGRANCY AND LOITERING PROHIBITED.** No person shall within the City loiter or loaf about any public building, place or premises or wander about the Streets, alleys, parks or other public places either by day or night, whose actions give rise to a suspicion of wrong doing and who is unable to give a satisfactory account of himself, or who, having the physical ability to work, is without any visible means of support and does not seek employment or who derives part of his support from begging, prostitution, pandering, fortune telling, or a similar impostor.
- (4) **INDECENT CONDUCT AND LANGUAGE PROHIBITED.** No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the City. It shall be a violation of this subsection for any person to sell, give away or distribute within the City any obscene show or exhibition.

(5) OBSCENE LITERATURE. No person shall within the City sell, offer for sale, or give away or exhibit any obscene book, pamphlet, paper, card, picture, toy or device.

(6) INCORPORATION OF CHAPTER 944, WISCONSIN STATUTES

The provisions of Chapter 944 of the Wisconsin Statutes addressing and prohibiting crimes against sexual morality as well as the provisions of Chapter 948 of the Wisconsin Statutes addressing and prohibiting crimes against children are incorporated herein by reference together with any subsequent additions, modifications or other changes.

7.04 **OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY.**

(1) DESTRUCTION OF PROPERTY PROHIBITED. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property belonging to the City or its departments, to the public, or to any private person without the consent of the owner or proper authority.(Rep. & Recr. #305)

(2) LITTERING PROHIBITED. No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the City, upon any public property, or upon any private property not owned by him or upon the surface of any body of water within the City.(Rep. & Recr. #305)

(3) UNLAWFUL RETENTION, MUTILATION, OR THEFT OF LIBRARY MATERIALS.

(a) UNLAWFUL RETENTION OF LIBRARY MATERIALS. No person shall fail, following demand sent by regular mail, to return or make full restitution for any overdue book, periodical pamphlet, picture, or any other article or property belonging to or in charge of the New Holstein Public Library and no person shall remove from the New Holstein Public Library any book, periodical, pamphlet, picture, or other article or property belonging to or in charge of the New Holstein Public Library without first having checked out such article pursuant to the rules and regulations of the library.

(b) MUTILATION OF LIBRARY MATERIALS. No person shall mar, deface, or in any other way damage any book, periodical, pamphlet, picture, or other article or property belonging to or in the charge of the New Holstein Public Library, or permit the same to be done without reimbursing the library for such damage following demand sent by regular mail.

(c) THEFT OF LIBRARY MATERIALS. Section 943.60 of the Wisconsin Statutes, relating to theft of library materials, is hereby adopted by reference with the exception of the penalty provisions of said section.

(4) **TRESPASS.**

(a) TRESPASS. Sections 943.13, 943.14, and 943.15 of the Wisconsin Statutes, relating to trespass to land, criminal trespass to dwellings, and entry onto a construction site or into

a locked building, dwelling, or room, is hereby adopted by reference with the exception of the penalty provisions of said Section.

- (b) **TRESPASS ON PUBLIC OR PRIVATE SCHOOL PROPERTY.** Any student who is suspended or currently expelled from school shall remain a distance of 1,080 feet away from any real property owned or permanently used by the School District of the City of New Holstein or any private school ("School Property") while school is in session, unless officially requested by proper authorities, to be present on the School Property. This paragraph shall not apply if the student resides or works within 1,000 feet of the School Property; except that such student shall remain off School Property while suspended or expelled. No person shall be upon School Property unless:

1. authorized by the proper authorities;
2. attending a regularly scheduled or officially sanctioned program or function being held on School Property;
3. having official and legitimate business on School Property;
4. for recreational purposes provided such use does not interfere with sanctioned school activities, official school business or classroom instruction and is consistent with posted hours and is in compliance with any school rules and regulations.

- (c) **PENALTY.** Any person who shall violate Section 7.04(4) of the Municipal Code shall be subject to a penalty as provided in Section 20.04 of this Code.

(5) **REGULATION OF SMOKING.** Section 101.123, Wisconsin Statutes, relating to the regulation of smoking are hereby adopted as reference as part of this Section as if fully set forth herein and the penalties adopted under Section 101.123(8), Wisconsin Statutes, are hereby specifically adopted as if incorporated herein and shall be considered a municipal ordinance violation. In all other respects, the foregoing ordinance shall be maintained and in full force and effect. (Cr. #274)

- (a) **NO SMOKING IN CITY HALL.** No person shall smoke, or carry a lighted cigar, cigarette, pipe, or any other lighted smoking equipment in the New Holstein City Hall.

- (b) **UNDERAGE SMOKING.** Section 48.983, Wisconsin Statutes, (1993-1994), describing and defining the prohibition against children buying or attempting to buy cigarettes or tobacco products, falsely representing age for the purpose of receiving cigarettes or tobacco products or possessing cigarettes or tobacco products, are hereby adopted and by reference made a part of this Chapter as though fully set forth herein. Any

act required to be performed or prohibited by any of the Statutes incorporated herein by reference is required or prohibited by this ordinance. This adoption by reference shall also include any subsequent additions, modifications, or other changes to the above statute.(Cr. #330)

(c) Section 254.92, Wisconsin Statutes, prohibiting any person under the age of 18 years of age from purchasing, attempting to purchase or possess any cigarette or tobacco product except for the sole purpose of resale in the course of employment during working hours is prohibited. Further, the sale of cigarette or tobacco product to a person under the age of 18 is prohibited and any person violating this section shall be subject to the penalty provisions set forth at Chapter 7.05 included herein. Wisconsin Statutes regarding environmental health contained at Chapter 254 of the Wisconsin Statutes are incorporated herein by reference together with any subsequent additions, modifications, or other changes. (Cr. # 42)

(d) Given the fact the New Holstein School District has prohibited the use of tobacco on premises owned by it or rented by it as permitted to be prohibited by the School Board under Section 120.12(20), Wisconsin Statutes, it shall be unlawful for any person, regardless of age, to use tobacco products on premises owned, rented, or under the control of the New Holstein Public School District. (Cr. #430)

(6) REGULATION OF CRIMES AGAINST PUBLIC PEACE, ORDER, AND OTHER INTEREST. Chapter 947, Wisconsin Statutes, relating to the regulation of crimes against public peace, order, and other interests are hereby adopted as reference as part of this Chapter as if fully set forth herein and the penalties adopted under Section 7.05, New Holstein Municipal Code, are hereby specifically adopted as if incorporated herein and shall be considered a municipal ordinance violation. (Cr. #278)

(7) POSSESSION OF DRUG PARAPHERNALIA. Pursuant to the authority granted all cities including the City of New Holstein pursuant to Section 66.0107(1)(bp), of the Wisconsin Statutes, the City of New Holstein does hereby adopt the provisions of § 961.573(1) and (2), Stats., regarding possession of drug paraphernalia and the provisions of § 961.874(1) and (2), Stats., and the provisions of § 961.575(1) and (2), Stats.

The adoption by reference shall also include any act required to be performed or prohibited by any of the statutes incorporated herein by reference is required or prohibited by this ordinance. This adoption by reference shall also include any subsequent additions, modifications or other changes to the above sections of the Wisconsin Statutes. However, the penalty provision for a person found to have violated and determined guilty of violating this ordinance as adopting state statute, shall be subject to penalty as provided in Section 20.04 of the Municipal Code of the City of New Holstein rather than the penalties prescribed at §961.573, §961.574 or §961.575, Stats. (Rep. & Recr. #530)

(8) PROHIBIT AGAINST SWIMMING IN THE KIWANIS PARK POND DENOMINATED

AS LANGENFELD POND. No person shall swim or wade in the pond located in Kiwanis Park, which has been named Langenfeld Pond. The penalties provided in Chapter 7.05 shall apply to any person who shall violate any provision of this ordinance.(Cr. #323)

(9) Chapter 938 of the Wisconsin Statutes relating to juvenile delinquency and regulation of juvenile activity is hereby adopted by reference with the exception of the penalty provisions of said Section. Any person who shall violate Section 7.04(9) of the Municipal shall be subject to a penalty as provided in Section 20.04 of this Code.(Cr. #339)

(10) **INCORPORATION OF CHAPTER 941, WISCONSIN STATUTES**

The provisions of Chapter 941 of the Wisconsin Statutes addressing and prohibiting crimes against public health and safety as well as the provisions of Chapter 943 of the Wisconsin Statutes addressing crimes against property and prohibiting the same are incorporated herein by reference together with any subsequent additions, modifications or other changes.

7.05 PENALTY.

(1) Any person who shall violate any provision of Sections 7.01, 7.02, 7.03, and 7.04 of this Chapter, shall be subject to a penalty as provided in Section 20.04 of this Code.

(2) In addition to any penalty imposed for violation of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 7.04(1) of this Chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wisconsin Statutes. (Ord. #191)

7.06 MARIJUANA

(1) **POSSESSION OF MARIJUANA.** The City of New Holstein does hereby enact and enforce the following Ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in Section 961.01(14), Wisconsin Statutes, subject to the exception in § 961.41(3g), Stats., (intro.) and provide for a forfeiture for a violation of the ordinance and does identify such as an offense as a violation of this ordinance punishable as prescribed herein; except that any person who is charged with possession of more than 25 grams of marijuana or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana treated as an ordinance violation pursuant to Section 20.04 of New Holstein Code of Ordinances, in this instance prosecution shall not be had under this municipal ordinance.

A. Subject to the above, if a person possesses or attempts to possess tetrahydrocannabinols included under §961.14(4)(t), Stats., or a controlled substance analog of tetrahydrocannabinols of the quantity set forth above, the person shall be fined pursuant to §20.04 of the Municipal Code plus taxable forfeitures under the Uniform Bail Bond Schedule for the State of Wisconsin for a first offense. Provided,

however, if the individual charged and convicted of a violation under this subsection, and that person is a juvenile, the Court shall suspend the juvenile's operating privilege as defined in §340.01(4), Stats., for not less than six months nor more than five years and in addition shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50.00 or the juvenile's participation in a supervised work program or other community service work under §938.34(5g), Stats., or both.
 2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100.00 or the juvenile's participation in a supervised work program or other community service work under §938.34(5g), Stats., or both.
 3. For a violation committed within 12 months of two or more previous violations, a forfeiture of not more than \$500.00 or the juvenile's participation in a supervised work program or other community work under §938.34(5g), Stats., or both.
- B. Whenever the Court suspends a juvenile's operating privileges under this subsection, the Court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with the notice of suspension clearly stating that the suspension is for a violation under §961.57(32), (42) or (52), Stats., as incorporated within the ordinances for the City of New Holstein. (Rep. & Recr. #187) (Created Ord. #531)

(2) SYNTHETIC CANNABINOID PROHIBITED. (Created Ord No. 555)

- A. Possession, use, and sale are illegal. It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals whether under the common street or trade names of "Spice", "K2", "Genie", "Yucatan Fire", "fake", or "new" marijuana, or by any other name, label or description:
1. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-01 some trade or other names:HU-210
 2. 1-Pentyl-3-(1-naphthoyl)indole-some trade or other names: JWH-018
 3. 1-Butyl-3-(1naphthoyl)indole-some trade or other names: JWH-073
 4. 2-[1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol some trade or other names: CP 47,497 and homologues
 5. Or any similar structural analogs.
 6. Section 961.14(4) and Section 961.41(3g)(em), Stats., are hereby incorporated herein and all chemicals identified within that statute are determined to be prohibited under this ordinance; this prohibition shall apply to the current statutory sections and any

amendments thereto.

- B. MEDICAL OR DENTAL USE ALLOWED. Acts otherwise prohibited under subsection (A) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

7.07 **CONTROLLING RECREATIONAL FIRES** (Created #355)

(1) BURNING. Burning of garbage and rubbish is prohibited. No person, other than the City or its agents, shall set fire to or burn any garbage or rubbish on any street or on any public or private premises. Rubbish shall include all yard waste such as: leaves, grass clippings, shrub trimmings, garden waste, and fallen branches and twigs. (Ord. 513)

(2) RECREATIONAL FIRES. “Recreational fires” are defined as follows: Any fire such as a camp fire or cooking fire located at a single or two-family private residence for the purpose or recreation and personal enjoyment. All recreational fires shall comply with the following requirements:

(1) No recreational fire pit and unscreened portable fire pit or fireplace shall be closer than fifteen (15) feet from any building structure, shed, or garage.

(2) No recreational fire shall be in an area larger than three (3) feet by three (3) feet.

(3) All recreational fire shall be in a below ground fire pit with minimum depth of ten(10) inches and shall be covered when not in use or the fire pit shall be surrounded on the outside, above the ground, by a non-combustible material such as concrete block or rock.

(4) Portable fire pits shall be extinguished when not attended by a responsible person. It is recommended to have a cover and screen but not mandatory.

(5) No recreational fire shall be started unless there are favorable conditions for burning with regard to wind direction and speed.

(6) Material for recreational fires shall not include rubbish, garbage, treated wood, wet wood, trash or hazardous materials and shall not contain any flammable or combustible liquids as prohibited at Chapter 9.08 of the City of New Holstein Code of Ordinances. No person, other than the City or its agents, shall set fire to or burn any garbage or rubbish on any street or on any public or private premises.

(7) All recreational fires shall be attended at all times by at least one (1) responsible person of age sixteen (16) years or older.

(8) No open fire shall be allowed that causes smoke which is a PUBLIC NUISANCE or cause a traffic hazard because of diminished visibility. PUBLIC NUISANCE is defined as set

forth in the New Holstein Municipal Code of Ordinances.

(9) The entity, person, firm, association, corporation, or property owner starting a fire shall be liable for any damage caused by any open fire. The City of New Holstein Police Department will be charged with requiring any entity, person, firm association, corporation, or property owner from ceasing and desisting from the violation of the provisions of this Ordinance. In the event any such entity, person, firm, association, corporation, or property owner fails or refuses to comply with a directive from the police department to cease and desist from any violation of this ordinance, then, in that event, the New Holstein Fire Department may be requested by a law enforcement officer to extinguishing the fire. If so required, the cost of controlling and or extinguishing the fire by the New Holstein Fire Department shall be a cost charged to the property owner, entity, person, firm, association, or corporation who has violated this ordinance and shall be payable by that violator in addition to the forfeiture required herein. The costs chargeable to the violator for the fire department's control or extinguishment of such a fire shall be at the going rate to be reviewed yearly by the City of New Holstein Fire Department.

(3) **OUTDOOR COOKING FIRE.** Open or closed outdoor cooking fire (barbecue grills) and approved grills and or containers are exempt from the open fire requirements and the closed fire requirements and the closed fire requirements as described herein above except as follows:

(1) For all dwellings, more than one story in height, the use of any propane or charcoal portable cooking device or any portable fireplace device is strictly **PROHIBITED** above the first floor occupancy.

(4) **EMERGENCY POWERS OF THE FIRE CHIEF.** When the Fire Chief determines there are environmental conditions likely to produce a serious threat of fire to life and property, it shall be the duty of the Fire Chief of the Fire Department to impose a burning ban and burning restrictions and require that no person may:

(1) Set, build, or maintain any open fire, except: charcoal and wood burning grills when in the immediate vicinity of a residential dwelling and when placed on a non-combustible surface, or gas grills or camp stoves.

(2) Throw, discard, or drop matches, ashes, or other burning material while outdoors in the immediate vicinity of combustible natural vegetation.

(3) Light or use any fireworks, as defined per Wisconsin Statutes, or caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke except in displays or use as authorized by the Fire Department where adequate fire prevention measures have been taken.

(4) At such time as the Fire Chief determines the emergency powers prescribed herein are required, the Fire Chief shall notify the residents of the City of New Holstein one (1) week

prior to the emergency order being entered by the Fire Chief in a manner reasonably calculated to notify residents of the City of New Holstein. i.e. papers, cablevision, radio, sign at the firehouse.

(5) VIOLATIONS. Any entity, person, firm, association, corporation, or property owner who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 20.04 of the City of New Holstein Code of Ordinances as well as the payment of actual costs incurred by the Fire Department prescribed at Section 2(8) above.

7.08 **FALSE COMPLAINTS OF POLICE MISCONDUCT** (Created #433)

(1) The City of New Holstein does ordain that it shall be a violation of the New Holstein Municipal Code of Ordinances of the City of New Holstein for an individual to knowingly make a false complaint regarding the conduct of a law enforcement officer and said conduct shall be determined to be a violation of the Ordinance No. 433 and shall be penalized pursuant to Section 20.04 of the Municipal Code of Ordinances for the City of New Holstein.

7.09 **INCORPORATION OF CHAPTER 946, WISCONSIN STATUTES**

The provisions of Chapter 946 of the Wisconsin Statutes addressing and prohibiting crimes against government and its administration are incorporated herein by reference together with any subsequent additions, modifications or other changes.

7.10 **SOCIAL HOSTS**

(1) **PURPOSE AND FINDINGS.** The City Council of the City of New Holstein intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons civilly responsible who host events or gatherings where persons under twenty-one (21) years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City Council finds:

(a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

(b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol related traffic collisions.

(c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

(d) Often, events or gatherings involving underage possession and consumption occur

outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.

(e) A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

(2) **DEFINITIONS.** For purposes of this Section 7.10, the following terms have the following meanings:

(a) **Alcohol.** “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(b) **Alcoholic Beverage.** “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(c) **Event or Gathering.** “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

(d) **Host or Allow.** “Host” or “allow” means to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

(e) **Parent.** “Parent” means any person having legal custody of a juvenile:

- (1) As natural, adoptive parent, or step-parent;
- (2) As legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

(f) **Residence, Premises or Public or Private Property.** “Residence”, “premises”, or “public or private property” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, an whether owned, leased, rented, or used with or without permission or compensation.

(g) **Underage Person.** “Underage person” is any individual under twenty-one (21) years of age.

(h) **Present.** Being at hand or in attendance.

(i) **In Control.** The power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

(3) PROHIBITED ACTS.

(a) It is unlawful for any person to: host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(b) It is unlawful for any person to intentionally aid, advise, hire, counsel, or conspire with or otherwise procure another to commit an act prohibited under Section 7.10(3)(a).

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be found in violation of Section 7.10(3)(a) or 7.10(3)(b).

(4) EXCEPTIONS.

(a) This Section 7.10 does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.

(b) This Section 7.10 does not apply to legally protected religious observances.

(c) This Section 7.10 does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(5) PENALTIES. A person who violates any provision of this Section 7.10 shall be subject to a penalty of up to \$1,500.00 for a first violation, up to \$2,000.00 for a second violation and up to \$2,500.00 for a third or subsequent violation.